

## Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 FAA-00 L-02 TRSE-00 OMB-01

IO-10 H-02 /044 W

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P 151249Z MAY 75

FM AMEMBASSY VIENNA

TO SECSTATE WASHDC PRIORITY 5675

LIMITED OFFICIAL USE VIENNA 4203

E.O. 11652: N/A

TAGS: EAIR, AU

SUBJECT: CIVAIR: PAN AM PLAN CONCERNING PAYMENT OF COMMISSIONS  
TO TRAVEL AGENTS

REF: VIENNA 4143 AND PREVIOUS

1. PAN AM LOCAL REP ADVISED EMBASSY THIS MORNING THAT  
COMPANY HAS RECEIVED LETTER FROM THEIR ATTORNEY GIST OF  
WHICH IS AS FOLLOWS:

A) AUSTRIAN/U.S. BILATERAL OF 1966 WAS PUBLISHED IN  
AUSTRIAN GAZETTE ON AUGUST 4, 1966, AND THEREFORE HAS THE  
FORCE OF LAW IN AUSTRIA BY VIRTUE OF THIS PUBLICATION.  
(LAWYER'S LETTER DOES NOT ADDRESS ITSELF TO QUESTION OF  
POSSIBLE DIFFERENCES IN THE INTERPRETATION OF BILATERAL.)

B) LETTER ALSO CAUTIONS PAN AM THAT IT MIGHT BE  
LIABLE TO BEING SUED BY OTHER CARRIERS IN AUSTRIA UNDER  
LAWS AGAINST UNFAIR COMPETITION, SINCE PAN AM APPARENTLY  
ONLY CARRIER WHICH WOULD BE PAYING HIGHER COMMISSION.

C) LETTER ALSO ADVISES CAUTION IN VIEW OF PAN AM  
CHARTER FLIGHTS, WHICH CONCEIVABLY MIGHT BE SUBJECT  
TO WITHDRAWAL OF LANDING RIGHTS BY LOCAL GOVERNMENT IF  
PAN AM WERE TO PERSIST WITH 10 PERCENT COMMISSION PLAN.  
(ACCORDING TO LOCAL PAN AM REP, PAN AM IS PLANNING 30-40  
CHARTERS FROM THE U.S. TO AUSTRIA THIS YEAR AND ABOUT  
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10 CHARTERS FROM AUSTRIA TO THE U.S. WE UNDERSTAND GOA

NOW IN PROCESS OF REVISING ITS CHARTER REGULATIONS.)

D) LETTER ALSO QUESTIONS WHETHER MARKET ADVANTAGE PAN AM MIGHT GAIN THROUGH HIGHER COMMISSIONS WOULD BE WORTH RISKS INVOLVED.

2. PAN AM REP HAS SUGGESTED THAT EMBASSY ASK GOA VERBALLY AND INFORMALLY FOR CONFIRMATION THAT BILATERAL HAS FULL FORCE OF LAW IN AUSTRIA. (COMMENT: THIS SEEMS TO US UNNECESSARY.)

3. COMMENT: ATTORNEY'S LETTER REINFORCES OUR OWN JUDGMENT AS CONTAINED REFTEL THAT PAN AM WOULD BE WISE TO AVOID A COLLISION COURSE WITH GOA ON THIS MATTER. FYI: WE HAVE DISTINCT IMPRESSION THAT PAN AM HERE ALSO BELIEVES IT IS UNWISE TO PURSUE 10 PERCENT COMMISSION PLAN. END FYI. PAN AM DIRECTOR LOY IS IN LONDON TODAY FOR DISCUSSIONS WITH PAN AM OFFICE THERE. UNLESS INSTRUCTED TO THE CONTRARY WE PROPOSE TO TELL LOY WHEN HE CONTACTS EMBASSY TOMORROW THAT HE WOULD BE WELL ADVISED TO PURSUE HIS LAWYER'S COUNSEL. IF DEPARTMENT BELIEVES ISSUE OF BILATERAL MUST BE ADDRESSED IN VIEW OF GOA LETTER TO PAN AM, WE WOULD SUGGEST AN INFORMAL, LOW-KEY STATEMENT TO GOA, FOR THE RECORD, THAT GOA INTERPRETATION OF THE BILATERAL IN THIS CASE IS AT VARIANCE WITH OURS, AND THAT WE LET MATTER GO AT THAT.

4. IDEALLY WE BELIEVE IT WOULD BE BETTER NOT EVEN TO RAISE THE BILATERAL ISSUE, WHICH GOA HAS NOT RAISED DIRECTLY WITH US. GOA HAS NEVER OFFICIALLY ACKNOWLEDGED EMBASSY NOTE OF FEB. 5, 1975, DESIGNATING TWA TO OPERATE SCHEDULED SERVICE TO AUSTRIA AND HAS NEVER RAISED QUESTIONS ABOUT PAN AM'S DESIGNATION (SEE PARA 2 STATE 24552) -- ANOTHER REASON IT SEEMS TO US FOR LETTING SLEEPING DOGS LIE. BUCHANAN

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## Message Attributes

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**Disposition Date:** 28 MAY 2004  
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